

MITCHELL + COMPANY  
Brian E. Mitchell (SBN 190095)  
4 Embarcadero Center, Suite 1400  
San Francisco, California 94111  
Tel: 415-766-3514  
Fax: 415-402-0058  
brian.mitchell@mcollawoffices.com

Attorney for Plaintiff  
INCASE DESIGNS, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

INCASE DESIGNS, INC.

Plaintiff,

v.

MOPHIE, INC,

Defendant.

Case No.:

**FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Plaintiff Incase Designs, Inc. ("Plaintiff" or "Incase") complains as follows:

**NATURE OF ACTION**

1. This action arises under the Patent Laws of the United States, 35 U.S.C. §§100, *et seq.*

**JURISDICTION AND VENUE**

2. The Court has subject matter jurisdiction of this action under 28 U.S.C. §1331 and §1338(a) in that it arises under the United States Patent Laws.

3. Defendant Mophie, Inc. ("Defendant") is subject to this Court's specific and general personal jurisdiction because Defendant conducts extensive business in this Judicial District, has committed the acts complained of in this Judicial District, and has caused injury to

1 Plaintiff within this Judicial District by virtue of the acts of patent infringement that are described  
2 herein.

3 4. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§1391(b), (c) and  
4 1400(b). Defendant is transacting, doing and/or soliciting business and committing acts of patent  
5 infringement in this Judicial District and elsewhere in the United States.

6 **THE PARTIES**

7 5. Incase is a global leader in the design, development, manufacture, and sale of  
8 carrying cases, bags, and covers for consumer electronics.

9 6. Upon information and belief, Defendant is a California corporation with its  
10 principal place of business at 760 S. Kalamazoo Street, Paw Paw, Michigan 49079. Defendant  
11 has been selling and offering to sell infringing tablet covers and battery pack cases within the  
12 United States, and within this District, all without consent from Plaintiff. Defendant's infringing  
13 products include, but are not necessarily limited to, the Workbook cover, the Mophie Juice Pack  
14 Plus, the Mophie Juice Pack Plus Outdoor Edition, the Mophie Juice Pack Air, and the Mophie  
15 Juice Pack Helium.

16 **FIRST CLAIM FOR RELIEF**

17 **(Infringement of the '008 Patent)**

18 7. Plaintiff incorporates by reference and realleges each of the allegations set forth  
19 above.

20 8. On December 11, 2012, U.S. Patent No. 8,328,008 (the '008 Patent), entitled Case  
21 for Electronic Tablet, was issued for the invention of a novel case for consumer electronics and the  
22 methods for the manufacture of same. Plaintiff has owned this patent throughout the period of  
23 Defendant's infringing acts and still owns this patent.

24 9. On February 14, 2013, Plaintiff provided Defendant with actual notice of the '008  
25 Patent and its infringement of same. Defendant is aware of the '008 Patent, yet it knowingly and  
26 actively induces consumers to use its infringing Workbook cover within the United States. Thus,  
27 Defendant actively induces infringement of the '008 Patent in violation of 35 U.S.C. § 271(b).  
28

1           10.     Since February 14, 2013, if not earlier, Defendant's patent infringement has been  
2 committed willfully with full knowledge of the '008 Patent.

3           11.     Defendant has infringed and is still infringing the '008 Patent by making, selling,  
4 and using tablet covers that embody the patented invention, and Defendant will continue to do so  
5 unless enjoined by this court.

6                               **SECOND CLAIM FOR RELIEF**

7                               **(Infringement of the '997 Patent)**

8           12.     Plaintiff incorporates by reference and realleges each of the allegations set forth in  
9 paragraphs 1-6 above.

10          13.     On November 3, 2009, U.S. Patent No. 7,612,997 B1 (the '997 Patent), entitled  
11 Portable Electronic Device Case with Battery, was issued for the invention of a novel case for  
12 consumer electronics and the methods for the manufacture of same. Plaintiff has owned this  
13 patent throughout the period of Defendant's infringing acts and still owns this patent.

14          14.     On February 14, 2013, Plaintiff provided Defendant with actual notice of the '997  
15 Patent and its infringement of same. Defendant is aware of the '997 Patent, yet it knowingly and  
16 actively induces consumers to use its infringing Juice Pack Plus, Juice Pack Plus Outdoor Edition,  
17 Juice Pack Air, Juice Pack Helium within the United States. Thus, Defendant actively induces  
18 infringement of the '997 Patent in violation of 35 U.S.C. § 271(b).

19          15.     Since February 14, 2013, if not earlier, Defendant's patent infringement has been  
20 committed willfully with full knowledge of the '997 Patent.

21          16.     Defendant has infringed and is still infringing the '997 Patent by making, selling,  
22 and using battery pack cases that embody the patented invention, and Defendant will continue to  
23 do so unless enjoined by this court.

**THIRD CLAIM FOR RELIEF**

**(Infringement of the '610 Patent)**

17. Plaintiff incorporates by reference and realleges each of the allegations set forth in paragraphs 1-6 above.

18. On August 24, 2010, U.S. Patent No. 7,782,610 B2 (the '610 Patent), entitled Portable Electronic Device Case with Battery, was issued for the invention of a novel case for consumer electronics and the methods for the manufacture of same. Plaintiff has owned this patent throughout the period of Defendant's infringing acts and still owns this patent.

19. On February 14, 2013, Plaintiff provided Defendant with actual notice of the '610 Patent and its infringement of same. Defendant is aware of the '610 Patent, yet it knowingly and actively induces consumers to use its infringing Juice Pack Plus, Juice Pack Plus Outdoor Edition, Juice Pack Air, Juice Pack Helium within the United States. Thus, Defendant actively induces infringement of the '610 Patent in violation of 35 U.S.C. § 271(b).

20. Since February 14, 2013, if not earlier, Defendant's patent infringement has been committed willfully with full knowledge of the '610 Patent.

21. Defendant has infringed and is still infringing the '610 Patent by making, selling, and using battery pack cases that embody the patented invention, and Defendant will continue to do so unless enjoined by this court.

**FOURTH CLAIM FOR RELIEF**

**(Infringement of the '498 Patent)**

22. Plaintiff incorporates by reference and realleges each of the allegations set forth in paragraphs 1-6 above.

23. On February 15, 2011, U.S. Patent No. 7,889,498 B2 (the '498 Patent), entitled Portable Electronic Device Case with Battery, was issued for the invention of a novel case for consumer electronics. Plaintiff has owned this patent throughout the period of Defendant's infringing acts and still owns this patent.

1           24.     On February 14, 2013, Plaintiff provided Defendant with actual notice of the '498  
2 Patent and its infringement of same. Defendant is aware of the '498 Patent, yet it knowingly and  
3 actively induces consumers to use its infringing Juice Pack Plus, Juice Pack Plus Outdoor Edition,  
4 Juice Pack Air, Juice Pack Helium within the United States. Thus, Defendant actively induces  
5 infringement of the '498 Patent in violation of 35 U.S.C. § 271(b).

6           25.     Since February 14, 2013, if not earlier, Defendant's patent infringement has been  
7 committed willfully with full knowledge of the '498 Patent.

8           26.     Defendant has infringed and is still infringing the '498 Patent by making, selling,  
9 and using battery pack cases that embody the patented invention, and Defendant will continue to  
10 do so unless enjoined by this court.

11                                   **PRAYER FOR RELIEF**

12           Therefore, Plaintiff prays for judgment:

13           1.     That Defendant has infringed the '008, '997, '610, and '498 Patents;

14           2.     That Plaintiff be awarded damages from patent infringement according to proof and  
15 ordering that such damages be multiplied up to treble their amount;

16           3.     Preliminarily and permanently enjoining Defendant and all others acting in concert  
17 with Defendant from making, using, selling, or offering to sell the infringing tablet covers, battery  
18 pack cases, or any other product that infringes the '008 Patent without permission or license from  
19 Plaintiff;

20           4.     Preliminary and permanently enjoining Defendant and all others acting in concert  
21 with Defendant from making, using, selling, or offering to sell the infringing tablet covers, battery  
22 pack cases, or any other product that infringes the '997, '610, and '498 Patents without permission  
23 or license from Plaintiff;

24           5.     That Defendant be ordered to deliver up to Plaintiff all products infringing the  
25 '008, '997, '610, and '498 Patents within its ownership, possession, or control for destruction by  
26 Plaintiff or, in the alternative, that the Court award a compulsory royalty for the current and future  
27 sale of such goods;

1           6.       That the Court declare this to be an exceptional case pursuant to 35 U.S.C. §285,  
2 and award reasonable attorney's fees;

3           7.       That the Court increase damages up to three times the amount found or assessed by  
4 the Court in Plaintiff's favor and against Defendant for its willful and deliberate infringement of  
5 the '008, '997, '610, and '498 Patents.

6           8.       That Plaintiff be awarded its costs of suit, and pre- and post-judgment interest on  
7 any money judgment;

8           9.       For such other relief as the Court deems proper.

9  
10 Dated: February 25, 2013

Respectfully submitted,

11 /s/ Brian E. Mitchell

12 Brian E. Mitchell

13 MITCHELL + COMPANY

4 Embarcadero Center, Suite 1400

San Francisco, CA 94111

14 Telephone: (415) 766-3515

15 Facsimile: (415) 402-0058

brian.mitchell@mcclawoffices.com

16 Attorney for Plaintiff

17 INCASE DESIGNS, INC.

**JURY DEMAND**

Plaintiff demands a jury trial on all claims as to which it has a right to a jury.

Dated: February 25, 2013

Respectfully submitted,

/s/ Brian E. Mitchell

Brian E. Mitchell

MITCHELL + COMPANY

4 Embarcadero Center, Suite 1400

San Francisco, CA 94111

Telephone: (415) 766-3515

Facsimile: (415) 402-0058

brian.mitchell@mcclawoffices.com

Attorney for Plaintiff

INCASE DESIGNS, INC.